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OFFICE OF PETITIONS

In re Application of :
James K. Vanderveen :
Application No. 09/814,227 : **DECISION ON PETITION**
Filed: March 21, 2001 :
Attorney Docket No. 60,426-242(2000P09010US01) :

This is a decision in response to the petition under 37 CFR 1.137(b) filed June 30, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. The \$1,500 petition fee submitted with the petition is being refunded to counsel's deposit account.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before March 21, 2006, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed December 21, 2005. A Notice of Abandonment was mailed May 5, 2006. In response, on June 30, 2006, the present petition was filed, wherein petitioner asserts that the Notice dated December 21, 2005 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

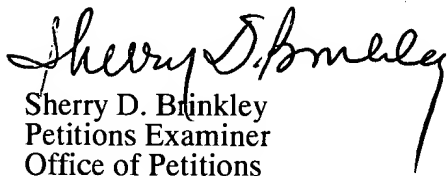
See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the requisite issue/publication fee accompanied the petition, the application is being referred to Publishing Division for further processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions